

20 Years of Change in United States Patent Law

The Honorable Raymond T. Chen,
U.S. Court of Appeals for the Federal Circuit
October 2025

The Supreme Court's Active Engagement In Patent Law (2005–15)

- ***eBay v. MercExchange* (2006)**

- Required traditional equity factors for permanent injunctions in patent cases:
 - (1) irreparable injury
 - (2) inadequate legal remedies
 - (3) balance of hardships
 - (4) public interest

- ***KSR v. Teleflex* (2007)**

- Allowed more flexible obviousness analysis that considered factors such as common sense and market forces

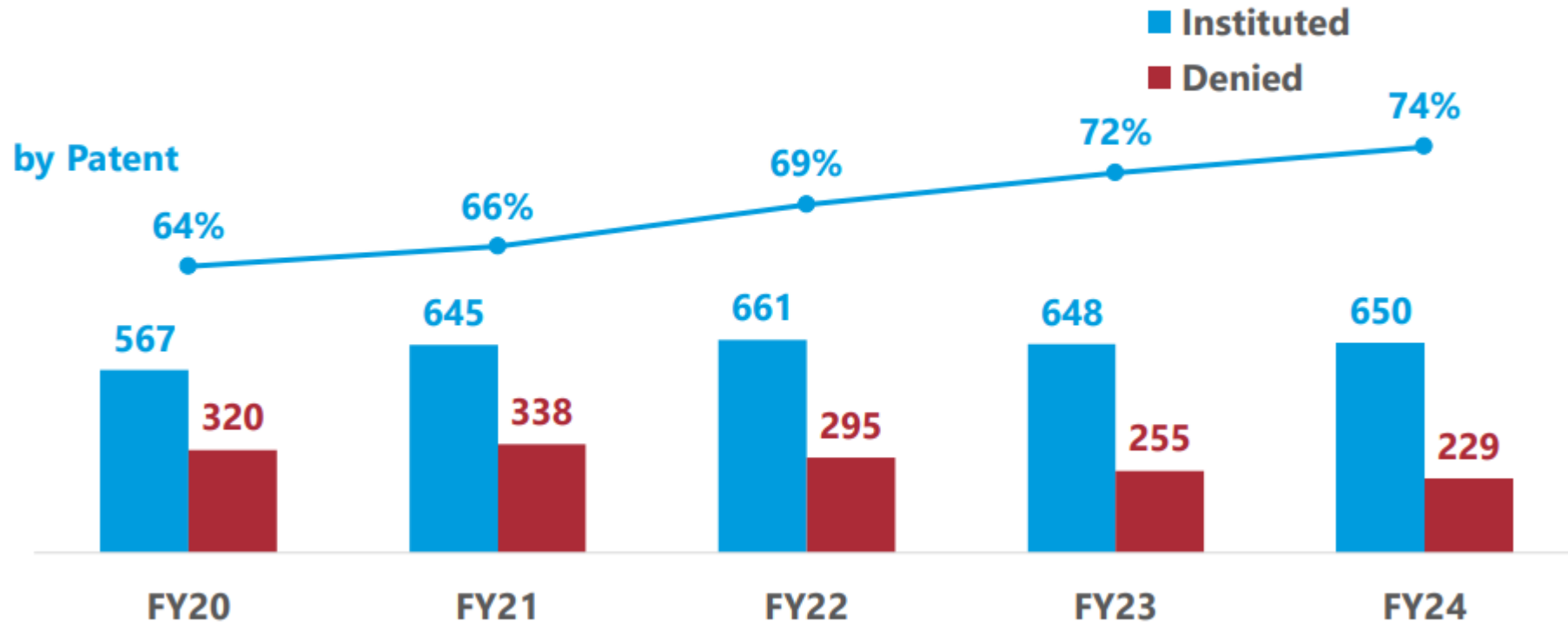
The Supreme Court's Active Engagement In Patent Law (2005–15)

- **Section 101: *Bilski v. Kappos* (2010), *Mayo v. Prometheus* (2012), *Association for Molecular Pathology v. Myriad Genetics, Inc.* (2013), and *Alice Corp v. CLS Bank* (2014)**
 - Established two-step test for patent eligibility:
 - (1) are claims directed to abstract idea, law of nature, or natural phenomenon?
 - (2) if so, do claims contain an inventive concept?
 - Many motions to dismiss based on Section 101 granted by district courts
 - Federal Circuit affirms high percentage of Section 101 invalidations

Inter Partes and Post Grant Review

Institution rates by patent

(FY20 to FY24: Oct. 1, 2019 to Sept. 30, 2024)



Concentration of Patent Litigation

Percent of Newly Filed Patent Cases:

- Texas: 30%
- California: 19%
- Delaware: 18%



Modernizing Court Operations

- Implementing electronic filings since 2012
- Publishing all opinions and oral argument recordings online
- Conducting oral arguments via video conferencing during COVID-19 and inclement weather
- Exploring use of AI tools in court operations

